

***SENATE JUDICIARY & RULES COMMITTEE***

***ADMINISTRATIVE RULES REVIEW***

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# **JUDICIARY & RULES COMMITTEE**

## **IDAPA 11 - IDAHO STATE POLICE**

### **11.10.01 - RULES GOVERNING ILETS - IDAHO LAW ENFORCEMENT TELETYPEWRITER SYSTEM**

#### **DOCKET NO. 11-1001-0601 (FEE RULE)**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2007 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5203(3), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 4, 2006 Idaho Administrative Bulletin, Vol. 06-10, pages 133 through 139.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 19-5202(4), Idaho Code. This changes the fees charged for access and usage of the Idaho Public Safety and Security Information System, known as ILETS. The fees will increase to all agencies: local, state, and federal by 25% beginning on October 1, 2007. The amount of the change to each agency depends upon the fees currently paid. This will have a positive impact on the ILETS Fund used to operate and maintain the system. The ILETS Board examined the current fee structure of the system and the costs of operating the system. The Board analyzed the differences and the future needs of the system to determine that an increase was needed and unanimously approved a 25% increase in both the access fee and the usage fees.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: It is anticipated that the total impact to the state agencies using the ILETS system will be less than \$10,000.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dawn Peck, Idaho State Police Bureau of Criminal Identification, (208) 884-7136 or Dawn.Peck@isp.idaho.gov.

DATED this 27th day of October, 2006.

***THIS NOTICE WAS PUBLISHED WITH THE PROPOSED RULE***

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**IDAHO STATE POLICE**  
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**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-5203(3), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 18, 2006.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The majority of the changes are to update language in the rules to become consistent with recent statutory changes and to more clearly identify the sanctions for misuse of the system. There is also a fee change approved by the ILETS Board at their May meeting.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

This changes the fees charged for access and usage of the Idaho Public Safety and Security Information System, known as ILETS. The fees will increase to all agencies: local, state, and federal by 25% beginning on October 1, 2007. The amount of the change to each agency depends upon the fees currently paid. This will have a positive impact on the ILETS Fund used to operate and maintain the system. The ILETS Board examined the current fee structure of the system and the costs of operating the system. The Board analyzed the differences and the future needs of the system to determine that an increase was needed and unanimously approved a 25% increase in both the access fee and the usage fees.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: It is anticipated that the total impact to the state agencies using the ILETS system will be less than \$10,000.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because affected parties are represented on the ILETS Board, and ILETS Board members are charged with informing their respective constituencies of intended changes to the system.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Dawn Peck, Idaho State Police Bureau of Criminal Identification, (208) 884-7136 or Dawn.Peck@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments

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must be directed to the undersigned and must be delivered on or before October 25, 2006.

DATED this 23rd day of August, 2006.

Lieutenant Colonel Kevin Johnson  
Deputy Director  
Idaho State Police  
700 W. Stratford Drive  
P.O. Box 700, Meridian, ID 83680-0700  
(208) 884-7200 / (208) 884-7090 fax

## **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

### **11.10.01 - RULES GOVERNING ~~ILETS~~ THE IDAHO LAW ENFORCEMENT TELETYPEWRITER PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM**

#### **000. LEGAL AUTHORITY.**

Title 19, Chapter 52, Idaho Code, creates an ~~teletypewriter communications~~ information system board and authorizes it to make rules necessary to establish and operate the Idaho ~~Law Enforcement Teletypewriter~~ Public Safety and Security Information System, known as ( “ILETS”). (3-20-04)( )

#### **001. TITLE AND SCOPE.**

**01. Title.** These rules are cited as IDAPA 11.10.01, “Rules Governing ~~ILETS~~ Idaho ~~Law Enforcement Teletypewriter~~ Public Safety and Security Information System”. (3-20-04)( )

**02. Scope.** These rules relate to the governance and operation of the Idaho ~~Law Enforcement Teletypewriter~~ Public Safety and Security Information System. (3-20-04)( )

## **(BREAK IN CONTINUITY OF SECTIONS)**

#### **004. INCORPORATION BY REFERENCE.**

**01. Incorporated Documents.** IDAPA 11.10.01 incorporates by reference the full text of the requirements relating to criminal justice information and the system used to transport such information found in the following documents: (3-20-04)

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- a. "Criminal Justice Information Systems," 28 CFR Part 20 (July 1, 2003~~6~~); ~~(3-20-04)~~(\_\_\_\_)
  - b. "Criminal Justice Information Systems--CJIS Security Policy," Federal Bureau of Investigation, National Crime Information Center, Version ~~3.1~~ 4.3 (~~September~~ December 2002~~5~~); ~~(3-20-04)~~(\_\_\_\_)
  - c. "National Crime Information Center 2000, Operating Manual," Federal Bureau of Investigation, National Crime Information Center (~~December 1999~~ June 2005); ~~(3-20-04)~~(\_\_\_\_)
  - d. "National Law Enforcement Telecommunication System, Users Guide," NLETS, Users Guide, (~~January 1~~, August 2003~~5~~); ~~(3-20-04)~~(\_\_\_\_)
  - e. "National Law Enforcement Telecommunication System, Policies and Procedures," NLETS, Policies and Procedures, (May 1, 2002). (3-20-04)
- 02. Document Availability.** The above listed documents are available during normal working hours for inspection and copying at the Idaho State Police, Bureau of Criminal Identification, 700 South Stratford Drive, Meridian, Idaho. (3-30-01)

### (BREAK IN CONTINUITY OF SECTIONS)

## 010. DEFINITIONS.

- 01. Access Agency.** An agency that electronically accesses ILETS through the services of an interface agency. (3-20-04)
- 02. Administration of Criminal Justice.** (3-30-01)
  - a. Administration of Criminal Justice means performance of any of the following activities: (3-30-01)
    - i. Detection; (3-30-01)
    - ii. Apprehension; (3-30-01)
    - iii. Detention; (3-30-01)
    - iv. Pretrial release; (3-30-01)
    - v. Post-trial release; (3-30-01)
    - vi. Prosecution; (3-30-01)
    - vii. Adjudication; (3-30-01)

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- viii. Correctional supervision; or (3-30-01)
- ix. Rehabilitation of accused persons or criminal offenders. (3-30-01)
- b.** The administration of criminal justice includes: (3-30-01)
  - i. Criminal identification activities; and (3-30-01)
  - ii. The collection, storage, and dissemination of criminal history record information. (3-30-01)
- 03. Associated System.** Any automated or manual information system that is accessible through ILETS. (3-30-01)
- 04. Board.** The board created by Title 19, Chapter 52, Idaho Code to establish priorities and operational policies and procedures relating to ILETS. (3-20-04)
- 05. Criminal Justice Agency.** (3-30-01)
  - a.** Federal and state courts having jurisdiction to hear criminal matters; and (3-30-01)
  - b.** A government agency or a subunit of a government agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of justice. (3-20-04)
- 06. Department.** The Idaho State Police, or its successor agency. (3-20-04)
- 07. Executive Officer.** A position on the ILETS Board filled by the director of the Idaho State Police, or its successor agency. (3-20-04)
- 08. III.** The Interstate Identification Index, which is a cooperative federal-state system for the exchange of automated criminal history records and, to the extent of their participation in the III system, the criminal history repositories of the states. (3-30-01)
- 09. ILETS.** The Idaho ~~Law Enforcement Teletypewriter (telecommunication)~~ Public Safety and Security Information System as established by the director of Idaho State Police pursuant to Title 19, Chapter 52, Idaho Code, includes all hardware, software, electronic switches, peripheral gear, microwave links, and circuitry that comprise the system. ~~(3-20-04)~~(\_\_\_\_)
- 10. Interface Agency.** An agency that has management control of a computer system directly connected to ILETS. (3-20-04)
- 11. Management Control Agreement.** A written agreement between a criminal justice agency and a non-criminal justice agency that provides services (dispatching, record keeping, computer services, etc.) to the criminal justice agency. The agreement gives the criminal justice agency authority to set and enforce policies governing the non-criminal justice agency's access to ILETS. (3-20-04)

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**12. NCIC 2000.** The Federal Bureau of Investigation National Crime Information Center, is a computerized information system that includes telecommunications lines and message facilities authorized by law, regulation, or policy approved by the United States Attorney General to link local, state, tribal, federal, foreign, and international criminal justice agencies for the purpose of exchanging NCIC related information. The NCIC 2000 system includes information in the III system. (3-20-04)

**13. NLETS.** The ~~National Law Enforcement Telecommunication System~~, ~~Incorporated~~ International Justice and Public Safety Information Sharing Network, is a national computerized message switching system that links national and state criminal justice information systems. (3-20-04)(\_\_\_\_)

**14. Non-Criminal Justice Agency.** A state agency, federal agency, or unit of local government that is not a criminal justice agency. The term does not refer to private individuals, corporations, or non-governmental agencies or organizations. (3-30-01)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 017. AGENCY ACCESS TO ILETS.

**01. Authorized Agencies.** Consistent with Title 19, Chapter 52, Idaho Code, which mandates the exclusive use of ILETS for law enforcement and traffic safety purposes, access to ILETS shall be restricted to the following governmental agencies: (3-30-01)

**a.** Criminal justice agencies; (3-30-01)

**b.** Non-criminal agencies that provide computer services, dispatching support, or other direct support service to one (1) or more criminal justice agencies, and which have signed an ILETS-approved management control agreement with the criminal justice agency; (3-30-01)

**c.** Non-criminal justice agencies with a statutory requirement to use information capabilities that may be available via ILETS, and use of terminal access will not adversely affect criminal justice agency users, and use of the terminal will be for the administration of criminal justice; and (3-30-01)

**d.** Non-criminal justice agencies that provide information or capabilities needed by criminal justice agencies for a criminal justice purpose, and access or use of a terminal will improve the ability to provide such information or capabilities. (3-30-01)

**02. Management Control Agreements.** The management control agreement between a criminal justice agency and a non-criminal justice agency grants to the criminal justice agency the authority to set and enforce: (3-20-04)

**a.** Priorities of service; (3-30-01)

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b. Standards for the selection, supervision, and termination of personnel authorized to access ILETS; and (3-30-01)

c. Policies governing the operation of computers, circuits, and telecommunications terminals used to process, store, or transmit information to or receive information from ILETS. (3-30-01)

**03. Board Approval.** The board reviews all requests for access to ILETS and determines whether an agency meets the criteria for access and whether access is appropriate based on system resources. Approved non-criminal justice agencies may have access to ILETS information on a limited basis (for example, motor vehicle information only) as authorized by the board. ~~(3-20-04)~~( )

### 018. USER ACCESS FEES.

**01. Payment of Fees Required.** Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the network must pay access and usage fees as provided in Section 018. (3-13-02)

**02. ILETS Network User Access Fees.** The access fees approved by the board and to be collected quarterly in advance by the department are as follows: (3-13-02)

a. An agency at the county or municipal level pays an annual access fee of four thousand dollars (\$4,000) for each telecommunication line drop to the agency. Effective October 1, 2007, the fee shall be five thousand dollars (\$5,000). ~~(3-20-04)~~( )

b. An agency at the state, federal, or tribal level pays an annual access fee of seven thousand dollars (\$7,000) for each telecommunication line drop to the agency. Effective October 1, 2007 the fee shall be eight thousand, seven hundred fifty dollars (\$8,750). ~~(3-20-04)~~( )

**03. Usage Fee.** Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the ILETS network pays quarterly a usage fee based on that agency's percentage of total annual messages sent and received by user agencies through the ILETS message switcher. The total percentage for an agency includes the message traffic generated by any other agency authorized to access ILETS through that agency's direct terminal or system access. (3-20-04)

a. The usage fee is assessed according to the following schedule:

Percentage of Total ILETS Message Traffic	Annual Usage Fee Prior to October 1, 2007	Annual Usage Fee Effective October 1, 2007
0 - .25 %	\$500	<u>\$625</u>
.26 - .50 %	\$1,000	<u>\$1,250</u>
.51 - .75 %	\$2,000	<u>\$2,500</u>
.76 - 1.0 %	\$4,000	<u>\$5,000</u>

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Percentage of Total ILETS Message Traffic	Annual Usage Fee Prior to October 1, 2007	Annual Usage Fee Effective October 1, 2007
1.01 - 1.50 %	\$6,000	<u>\$7,500</u>
1.51 – 2.0 %	\$9,000	<u>\$11,250</u>
2.01 – 5.0 %	\$13,500	<u>\$16,875</u>
> 5.01 %	<b>\$20,250</b>	\$25,313

~~(3-20-04)~~( )

**b.** The department will conduct audits of ILETS message switcher traffic for even-numbered years to determine an agency's annual usage fee. This fee is effective for two (2) years and begins with the quarterly statement beginning October 1 of odd-numbered years. (3-20-04)

**c.** If an agency discontinues direct terminal or system access to ILETS and acquires authorized access through another agency, the usage fee for the agency maintaining direct access will be adjusted to reflect the combined historical usage. (3-20-04)

**d.** A new agency approved for direct ILETS access that does not have historical usage will be assessed an interim usage fee by the department pending the next audit of ILETS message traffic. The department sets an interim fee based on the agency's similarities to existing agencies with direct terminal or system access. An agency may appeal the interim usage fee set by the department to the ILETS board. (3-20-04)

**e.** As operator of ILETS, the department, in lieu of payment of fees, provides direct and in-kind support of network operations. The board reviews biennially the proportion of that support to the overall operating cost of the system. (3-20-04)

**04. Billing and Payment.** The department mails billing statements quarterly to all agencies with direct terminal or system access to ILETS. Payment of the fees is due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment is due on the first successive business day. (3-20-04)

**05. Sanctions for Delinquency.** Any user agency that becomes delinquent in payment of assessed fees is subject to sanctions under Section 028. (3-20-04)

### **(BREAK IN CONTINUITY OF SECTIONS)**

## **028. USER AGENCY SANCTIONS.**

**01. Review of Violations.** The board reviews violations of ILETS rules and may impose appropriate sanctions on access agencies. (3-20-04)

**02. Objective of Sanctions.** The objectives of the sanction procedure are as follows:

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(3-20-04)

a. To ensure the security, integrity, and financial stability of the ILETS. (3-30-01)

b. To create an awareness among access agencies of the importance of following rules, regulations, and procedures in order to minimize the risk to liabilities that may be incurred by misuse of the system and access to its information. (3-20-04)

**03. Class of Sanctions.** Sanctions are based upon the class of violation, any previous violations, and any exposure to criminal and civil liabilities that the violation might place on the system, its officials, and the offending agency. Violations are classed as either administrative (minor) or security (serious) violations. Security violations are defined as ones which have or could result in access of ILETS data by unauthorized individuals. All other violations are classed as administrative. (3-20-04)

**04. Form of Sanctions.** When imposing sanctions, the board considers the severity of the violation, the violation type, either administrative or security, and previous sanctions issued. The board may require the violating agency to submit a mediation plan showing how the violation will be corrected and future violations prevented. The board shall consider such a mediation plan, if submitted, when imposing sanctions. The board may impose as sanctions one (1) or more of the following: ~~(3-20-04)~~(\_\_\_\_)

a. Written warning. (3-30-01)

b. Written notice of violation. (3-30-01)

c. Written notice of probation. (3-30-01)

d. Written notice of temporary suspension. (3-30-01)

e. Written notice of permanent suspension. (3-30-01)

**05. Effective Date of Sanctions.** Temporary or permanent suspension of service will not begin, unless an emergency exists, until fifteen (15) days after the agency head has received written notice by certified mail or personal service. (3-30-01)

**06. Reinstatement.** An agency placed on permanent suspension may apply to the board for reinstatement. (3-30-01)